IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6850 OF 2004

Raigonda Sidhram Poojari & anr. ..Petitioners.

Vs.

Balaso Ramchandra Kharade & anr. ..Respondents.

....

Mr.V.H.Wagh i/b Mr.H.S.Venegavkar for the Petitioners.

Mr.V.B.Rajure for Respondent Nos.1 and 2.

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CORAM : DR.D.Y.CHANDRACHUD, J.

16th March, 2006.

P.C. :

Rule, made returnable forthwith. Counsel appearing for Respondent Nos.1 and 2 waives service. By consent the matter is taken up for hearing and final disposal.

The Respondents have instituted Regular Civil Suit 186 of 2000 against the Petitioners for

an injunction in respect of agricultural land situated in Gat No.1000 at Mouje Pattan Kadoli, Taluka Hatkanangale, Dist. Kolhapur. The Petitioners who have filed their written statement moved an application for the amendment of the written statement which came to be dismissed by the impugned order dated 5th August, 2004.

There is merit in the submission urged on behalf of the Petitioners that the Trial Court was in error in applying the amended provisions of the Code of Civil Procedure since the suit in the present case was instituted prior to 1st July, 2002. In the circumstances, the Petitioners are liable to succeed. The Petition is accordingly allowed. The application for the amendment of the written statement (Exh.65) shall stand allowed. There shall be no order as to costs.